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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,592	06/08/2000	David S. Jones	252312007300	1002

25226 7590 02/19/2003

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EXAMINER

LUKTON, DAVID

ART UNIT	PAPER NUMBER
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1653

DATE MAILED: 02/19/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/590,592

Applicant(s)

JONES ET AL.

Examiner

David Lukton

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 06 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 1-15, 40-43 and 48-53 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-33, 35-39, 44- 47 is/are allowed.
- 6) ☒ Claim(s) 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Pursuant to the directives of paper No. 18 (filed 11/6/02), claim 34 has been amended. Claims 1-53 remain pending. Claims 16-39, 44- 47 are examined in this Office action; claims 1-15, 40-43, 48-53 remain withdrawn from consideration.

Applicants' arguments filed 11/6/02 have been considered and found not persuasive. Claims 16-33, 35-39, 44- 47 remain characterized as allowable; claim 34 is rejected under §112, second paragraph.

\*

Claim 34 is rejected under 35 U.S.C. §112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 34 recites that the polydispersity is "less than about" 1.2, thus rendering the claim indefinite as to the upper limit. It is suggested that the "about" qualifier be deleted. Applicants have argued that other examiners have abstained from rejecting claims which incorporate this term in other applications. While this may be true, it is not the controlling factor. Applicants have also argued that various Court decisions sanction the use of the term "about" in claims. As a general proposition, this particular point is not in dispute. However, none of the court decisions cited by applicants pertain to the use of the term "about" in reference to a

~~range~~  
~~ranges~~

The issue here is whether the upper limit to the polydispersity is 1.2, or some other number.

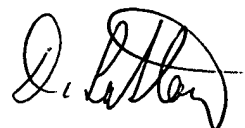
- Claim 34 recites that the composition comprises "molecules of claim 16". However, claim 16 is drawn to a single molecule. The following is suggested for claim 34:  
*A composition comprising at least two valency platform molecules of claim 16...*

\*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton whose telephone number is 703-308-3213. The examiner can normally be reached Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, can be reached at (703) 308-2923. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



DAVID LUKTON  
PATENT EXAMINER  
GPO 10 1877